IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Crl.Rev.Pet.No. 3202 of 2007()

CRA.142/2002 of ADDL.SESSIONS COURT (ADHOC)-III, THALASSERY
CC.301/1997 of JUDL.MAGISTRATE OF FIRST CLASS COURT, MATTANNUR

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REVN. PETITIONER: APPELLANT/IST ACCUSED

P.RAMADAS,S/O. SIVARAMAN,
KALLIAD AMSOM,PARATTA,KANNUR DISTRICT.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,REPRESENTING
STATION HOUSE OFFICER,ULIKKAL POLICE STATION,
KANNUR DIST.

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. NO. 3202 of 2007

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Dated: 6th September 2007

ORDER

Petitioner challenges the conviction entered and the sentence passed concurrently against him by the courts below for an offence punishable under Sec. 498 A I.P.C.

2. The case of the prosecution can be summarised as follows:-

P.W.1 (Premaja) was married by the accused in the year 1990. She was thereafter residing in her matrimonial home where the revision petitioner (A1) and his brother (A2) in furtherance of their common intention of coercing Premaja and her relatives to pay a sum of Rs. 10,000/- by way of dowry to A1, continuously harassed her on different occasions and on 7-7-1995 by beating her with hare hands the two accused who are brothers have thereby committed an offence punishable under Sec. 498 A read with Sec. 34 I.P.C.

3. The prosecution altogether examined 9 witnesses as P.Ws.1 to 9 and got marked four documents as Exts.P1 to 4.

4. After the close of the prosecution evidence the accused were questioned under Sec. 313 (1) (b) Cr.P.C. They denied the incriminating circumstances put to them and maintained their innocence.

5. The learned Magistrate, after trial, as per judgment dated 19-03-2002 acquitted the second accused but convicted the first accused/revision petitioner for the offence charged against him and sentenced him to rigorous imprisonment for six months and to pay fine of Rs. 2,000/- and on default to pay the fine to suffer simple imprisonment for 15 days. The fine amount was directed to be paid as

compensation to P.W.1.

6. Aggrieved by the said conviction entered and the sentence passed by the tiral court the revision petitioner filed an appeal as Crl. Appeal No. 142/2002 before the Addl. Sessions Court, Thalassery which was dismissed as per judgment dated 17-4-2007. Hence, this revision.

7. Eventhough the learned counsel for the revision petitioner assailed the conviction recorded against him, the same has been entered after a careful evaluation of the oral and documentary evidence in the case. In the absence of any infirmity in the appreciation of evidence by the courts below, this court sitting in the rarefied revisional jurisdiction will be loath to dislodge the said conviction which is accordingly confirmed.

8. What now survives for consideration is the question as to whether the sentence imposed on the revision petitioners is legal and proper. Having regard to the fact that the injuries sustained by P.W.1, the wife, and P.W.2 , the mother-in-law of the revision petitioner is discernible from Exts. P5 and P6 wound certificates respectively are only minor injuries without any external wounds, I am of the view that the revision petitioner do not deserve penal servitude by way of incarceration and that interests of justice will be adequately met by directing the revision petitioner to suffer imprisonment till the rising of the court and to pay an appropriate amount by way of compensation under Sec. 357 (3) Cr.P.C. to P.Ws 1 and 2 the injured. Accordingly, the sentence imposed on the revision petitioner is set aside and instead, he is directed to suffer imprisonment till rising of the court and to pay a sum of Rs. 4,000/- each to P.Ws 1 and 2 by way of compensation under Sec. 357 (3)

Cr.P.C. The compensation shall be paid within 45 days from today failing which the revision petitioner shall suffer simple imprisonment for three months by way of default sentence.

9. In the result, this Revision is disposed of confirming the conviction but modifying the sentence as above.

V. RAMKUMAR,
(JUDGE)

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